Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

No._____

In The
Supreme Court of the United States

Willard D. Gross
Petitioner,

V.

Fred Irtz, Administrator
Respondent,

PETITION FOR A WRIT OF CERTIORARI

SUPPLEMENTAL APPENDIX

Willard D. Gross pro se
6718 Russell Cave Road
Lexington, Kentucky 40511
(859) 299-6109

25pp

SUPPLEMENTAL APPENDIX

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COPY OF SUCCESSOR EXECUTOR
ORDER AFTER IT HAD BEEN ALTERED
WITH WHITE-OUT TO READ SUCCESSOR
ADMR. AND SUCC. ADMR. W/W/A WITHOUT AUTHORITY
- THIS WAS DONE
APPROXIMATELY 10 AFTER ORDER
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STATEMENT OF FACTS

In that the District Probate Court Lexington, Kentucky refused to honor two (2) proper and timely filed notice of appeals and Probate Judge Kevin Horne stating that no court would overturn his Order and allow this case to continue while it was on appeal, this court should deem this statement of facts as properly filed.

On April 19, 2000 Probate Judge Kevin Horne issued an incomplete ORDER. This Court Order has 7 issues to be resolved. This Order did not state that it was a final and appealable Order. Under the Rules of Probate Court Petitioner had 30 days in which to appeal a final an appealable Order.

Attorney Fred Irtz, Administrator of Caleb P. Gross' estate used this incomplete Order and picked up $142,933.00 from the Central Bank of Lexington, Kentucky and placed this money in a checking account in the estate of C.P. Gross with Central Bank.

Nine days after this incomplete Order was issued on April 28, 2000, Fred Irtz as Administrator paid himself $32,712..25. Check No. 675549. He also paid his attorney Robert Monk $23,718.75. Check No.675550.

At a hearing held on May 3, 2000, Petitioner questioned Judge Horne about the incomplete Order, in that it was not a final an appealable Order. Judge Horne stated "I meant it to be" Judge Horne again, for at least the fourth time, started threatening Petitioner for practicing law without a license and filing frivolous motions.

Judge Horne had Petitioner placed in the Fayette County Detention Center for 30 days for contempt of court. Petitioner was held for the full 30 days.

On May 3, 2000 Jane Gross filed a Notice of Appeal in this case with the probate clerk. With this case on appeal as of May 3, 2000 and petitioner in jail, where he could not get in the way, Judge Horne and Administrator Fred Irtz had no problem in using Judge Horne's incomplete order, on May 8, 2000 to pickup $433,809.45 cash money from the Master Commissioner.

This being 5 days after Jane Gross filed her Notice of Appeal and only 17 days after Judge Horne issued his incomplete Order. There were still 13 days to file a Notice of Appeal.

Administrator Fred Irtz as of May 8, 2000 had control of $576, 742.56 in cash money. Petitioner filed his

Notice of Appeal from jail on May 17, 2000. Fred Irtz knowingly picked up $40,000.00 from the Master Commissioner that did not belong to the estate of C.P. Gross, this money belonged to C.P. Gross' children.

Fred Irtz claimed this $40,000.00 on August 8, 2000 for additional administration expenses in his distribution calculation. Fred Irtz restated his charge of $40,000.00 for additional administration expenses in his distribution calculation dated January 23, 2001.

Fred Irtz claimed $50,000 for Executer Commission under Schedule J Kentucky Inheritance and Estate Tax Return of Caleb P. Gross. Filed and sworn to by Fred Irtz II, on May 12, 2000. The following is a list of checks and amounts that he has paid himself starting with his

Executors commission of			$50,000.00.
Check No.	675549	4/27/00	$32,712.25
Check No.	675561	6/01/00	$ 7,112.55
Check No.	675564	6/02/00	$ 7,150.00
Check No.	675568	7/03/00	$ 1,312.00
Check No.	675572	8/03/00	$ 4,352.65
Distribution Calculation on 8/08/00			$40,000.00

Additional Administration Expenses

Check No.	675581	9/12/00	$ 1,808.60
Check No.	675582	10/09/00	$ 100.00
Check No.	675584	11/03/00	$ 600.00
Check No.	675585	12/01/00	$ 3,205.40
Check No.	675587	1/03/01	$ 1,107.50
Check No.	675588	02/02/01	$ 8,900.00
Check No.	668938	no date	$ 3,510.00
Check No.	668940	4/03/01	$ 920.00
Check No.	668943	5/02/01	$ 550.00
Check No.	668945	6/04/01	$ 2,300.00
Check No.	717945	7/02/01	$ 6,450.00
Check No.	717958	8/03/01	$ 6,450.00
Check No.	669972	10/07/01	$ 850.00

Administrator Attorney Fred Irtz hired himself an attorney form his office by the name of Robert Monk. Fred Irtz has paid Robert Monk in the excess of $32,000.00. The above amounts charged for dividing up $576,742.56 in cash money.

Fred Irtz claims that he is a $200.00 an hour accountant and has all the work he can do. This case would imply that all of his clients wind up broke. He further claims that he works for the IRS and causes people to fear

him. This came out in Probate Court.

From April to September 2000, 5 months Fred Irtz has charged administration fee at the rate of $16,000.00 per month. Judge Horne ruled that the amount charged by Fred Irtz was reasonable, then overruled petitioner's motion for periodic accounting which was long overdue. Petitioner had to get a court Order from Circuit Court before Fred Irtz would hand over his bank records.

Fred Irtz has only wrote 44 checks. In this he has uses 4 sequence of numbers (675549), (668945), (717942), (699973). This has a peculiar order and needs an explanation.

This case has been on appeal since May 3, 2000. Judge Horne and Fred Irtz has kept this case active every since that day.

Petitioner on April 10, 2000 filed his objections to the court holding any hearings on any other issue in this case until the Motion to terminate Fred Irtz appointment as Administrator of C.P. Gross' estate has been finalized. (See App.3 in petition for Writ of Certiorari)

Respectively submitted,

Willard D. Gross

Willard D. Gross, pro se

COMMONWEALTH OF KENTUCKY
FAYETTE DISTRICT COURT
PROBATE DIVISION

IN RE: The Estate of Caleb P. Gross, Deceased

No. 91-P-1247

FILED and ENTERED APRIL 19, 2000

ORDER

The matter of removing the Administrator of the Estate having come on for hearing on the ORDER of this Court, and this Court having heard arguments of Mr. Willard Gross, as well as counsel for the Administrator of this Estate, and having reviewed the original appointment of this Administrator dated May 2, 1997, as well as the opinion of the Fayette Circuit Court affirming that order (Fayette Circuit Court file 97-XX-39); the nunc pro tunc order correcting a typographical error and affirming the appointment of this Administrator, issued April 17, 1998, as well as the opinion of the Fayette Circuit Court affirming that order (Fayette Circuit Court file 98-XX-46) and the order of the Kentucky Court of Appeals, dated November 12, 1998, denying Mr. Gross' motion for discretionary review of that Fayette Circuit Court opinion (Kentucky

Court of Appeals file 1999-CA-002195-D), and being otherwise sufficiently advised.

IT IS HEREBY ORDERED, that the appointment of Frederick G. Irtz, II as Successor Administrator W/W/A, is hereby REAFFIRMED.

IT IS FURTHER ORDERED, that bond shall be set upon Frederick G. Irtz, II in the amount of $580,000.00 with surety.

FURTHER, this Court having heard argument of Mr. Willard Gross and other various claimants, as well as Counsel for the Administrator of this Estate as to the respective claims which have been made against the estate, and this Court being otherwise sufficiently advised.

IT IS HEREBY ORDERED, that the following claims, in the following amounts shall be allowed as due claims and expenses of this Estate and the Successor Administrator W/W/A is hereby directed to obtain all Estate funds from the Master Commissioner, as well as Central Bank, and to make payment on any allowed unpaid claims according to the ORDER.

Robert Brown, claim of $3,529.10 is allow in full.

Caretenders, claim of $1,449.18 is allowed in full.

William Davis, claim of $1.492.87 is allowed in full.

Landrum & Shouse, claim of $2,605.99 is allowed in full.

Fowler, Measle, & Bell, claim of $2,521.17 is allowed in full.

Jack Stephenson, who has been paid $11,000.00 is allowed in full.

Fidelity & Deposit Co., claim of $528.00 is allowed in full.

Brown Todd & Heyburn, claim of $27,070.93 is allowed in full.

Herren & Adams, total claim of $16, 816.00 (of which $5,000.00 has already been paid) is allowed in full.

Frederick G.Irtz, II, as Successor Administrator W/W/A claim of $32,712.25 is allowed in full.

Robert C. Monk, claim of $23,718.25 is allowed in full.

Master Commissioner Clyde L. Stapleton, claim of $6,407.77 (and in addition, any increase which may be owed due to his fee being calculated on a daily basis) is allowed in full.

The following claims remain pending before this Court:

Eugene Gross, claim for his expenses $12, 750.00 (which as been paid).

Eugene Gross, claim for Executor's Fees.

Constance Gross, claim for $87.00 in Estate Expenses.

Constance Gross, claim for $12,000.00 for Loans to the Estate.

Constance Gross, claim of $8,250.00 for automobile use.

Constance Gross, claim of $22,500.00 for services rendered to the Estate.

Bank of Harlan, claim of $17,770.42.

_____

KEVIN HORNE
JUDGE, FAYETTE DISTRICT COURT

S. App. 10

FAYETTE CIRCUIT COURT
SIXTH DIVISION
APPELLATE BRANCH

IN RE: THE ESTATE OF CALEB POWERS GROSS, DECEDENT

FILED and ENTERED JULY 11, 2000

OPINION AFFIRMING

****

This matter is before the Court on appeal from District Court. This Court has reviewed the record and the memoranda submitted by Jane Gross and Willard D. Gross (hereinafter "Appellants"). The Appellants request the Court to reverse the District Court's Order of April 19, 2000, to the extent that it awards attorney fees; to reverse the District Court's reaffirmation of Frederick G. Irtz II, as Administrator W/W/A; and, to order that the District Court appoint Appellant Jane Gross as administrator of the estate. Other issues discussed in the Appellants' Statements of Appeal are not relevant to the relief they have requested.

Appellants' request to have Jane Gross appointed as Administrator is DENIED. KRS395.040 specifies that relatives of the deceased who wish to apply as administrator must so apply within (60) days of the death of the deceased. By failing to apply for appointment as administrator is a

timely manner, the relatives have waived their rights. Caleb Gross died June 5, 1991. Jane Gross raises her request to be appointed Administrator for the first time on May 19, 2000. Jane Gross did not apply to be appointed Administrator in a timely manner, and therefore, her request is DENIED.

This Court has previously addressed the Appellants' request that Frederick G. Irtz, II's appointment as Administrator W/W/A be set aside. The Court believes that the District Court did not abuse its discretion in the appointment of Frederick G. Irtz, II and therefore AFFIRMS the District Court's reaffirmation of his appointment. The Court AFFIRMS the District Court's Order of bond set upon Frederick G. Irtz, II in the amount of $580,000.00 with surety. The Court finds that this amount is sufficient to protect the estate.

Finally, the Court AFFIRMS the District Court's Order to pay the claims against the estate, including attorney fees. Because only the attorney fees are disputed on appeal, the remaining claims will not be addressed. The Court finds that the fees charged by the attorneys of which the appellants complain, $200 per hour, $125 per hour, and

$35 per hour (paralegal) are within the range of fees normally charged for similar work in the community, and therefore are not exorbitant. The District Court did not abuse its discretion in ordering the claims paid, and the order is AFFIRMED.

The Order of the District Court entered April 19, 2000, is AFFIRMED.

LEWIS G. PAISLEY, JUDGE
FAYETTE CIRCUIT COURT

COMMONWEALTH OF KENTUCKY
FAYETTE DISTRICT COURT
PROBATE DIVISION
IN RE: The Estate of Caleb P. Gross, Deceased
No. 91-P-1247
FILED and ENTERED APRIL 17, 1998

ORDER OF APPOINTMENT NUNC PRO TUNC

This matter having come on for hearing on April 9, 1997 for the Court to appoint a Successor Executor in the above styled matter, and the Court having taken testimony and upon consideration deems that an independent third party should be named in interest of all of the beneficiaries and having further determined that the proper designation for the Successor Personal Representative appointed in the Court's original Order would be that of "Administrator W/W/A", and the Court being sufficiently advised.

IT IS HEREBY ORDERED and the Court hereby appoints the Honorable Fred Irtz, as Administrator W/W/A. This is a final and appealable Order and shall take affect retroactively to May 2, 1997.

Dated this 17th day of Aril, 1998.

JULIA D. TACKETT
JUDGE, FAYETTE DISTRICT COURT

FAYETTE CIRCUIT COURT
SIXTH DIVISION
APPELLATE BRANCH
IN RE: THE ESTATE OF CALEB POWERS GROSS, DECEDENT
FILED and ENTERED SEPTEMBER 9, 1999

OPINION AFFIRMING

****

This matter is before the Court on appeal from District Court. This Court has reviewed the record and the memoranda submitted by the Parties.

The Appellant, their heirs of Caleb P. Gross, are appealing the District Court's Order of Appointment Nunc Pro Tunc and are asking for a hearing on the matter. The Appellant alleges that the District Court's original Order appointing Fred Irtz as Successor Executor of Caleb P. Gross' estate was forged. According to the Appellant, "Successor Executor" was altered with white out to read "SUCC Admir. W/W/A".

According to the Appellee, a draft order appointing Frederic G. Irtz, II as "Successor Executor" was signed and mistakenly mailed to the Parties. In the meantime, someone in the Clerk's office brought it to the attention of the Court

that Mr. Irtz would actually be a Successor Administrator With Will Attached, because Mr. Irtz was not named in the will. The Order was then corrected to read as such. The Appellant then questioned the change, and the Court issued an Order Nunc Pro Tunc to clarify the misunderstanding.

According to CR 60.01, clerical mistakes in orders may be corrected be the Court at any time of its own initiative. This is clearly what happened. The District Court realized the error in the wording of the draft order and corrected the error. This is further evidenced by the Court's Nunc Pro Tunc Order. Appellant's claims are without merit. The Judgement of the District Court is AFFIRMED.

_____

LEWIS G. PAISLEY, JUDGE
FAYETTE CIRCUIT COURT

COMMONWEALTH OF KENTUCKY
FAYETTE DISTRICT COURT
PROBATE DIVISION
IN RE: The Estate of Caleb P. Gross, Deceased
No. 91-P-1247
FILED and ENTERED MAY 2, 1997

ORDER

****

The Matter being on for a hearing April 9, 1997 for the court to appoint Successor Executor in above styled matter and the court having taken testimony;

IT IS HEREBY ORDERED that an independent third party be named in the interest of all of the beneficiaries. The court hereby appoints the Honorable Fred Irtz, Successor Executor. This is a final and appeal order.

This the 2 day May, 1997.

_____
JULIA TACKETT
JUDGE, FAYETTE DISTRICT COURT

COMMONWEALTH OF KENTUCKY
FAYETTE DISTRICT COURT
PROBATE DIVISION
IN RE: The Estate of Caleb P. Gross, Deceased
No. 91-P-1247
FILED and ENTERED MAY 2, 1997

ORDER

****

The Matter being on for a hearing April 9, 1997 for the court to appoint Successor Admr. in above styled matter and the court having taken testimony;

IT IS HEREBY ORDERED that an independent third party be named in the interest of all of the beneficiaries. The court hereby appoints the Honorable Fred Irtz, Succ. Admr. W/W/A. This is a final and appeal order.

This the 2 day May, 1997.

_____
JULIA TACKETT
JUDGE, FAYETTE DISTRICT COURT

S. App. 18

COMMONWEALTH OF KENTUCKY
FAYETTE DISTRICT COURT
PROBATE DIVISION
IN RE: The Estate of Caleb P. Gross, Deceased
No. 91-P-1247
FILED and ENTERED MAY 3, 2000

NOTICE OF APPEAL

****

Comes the petitioners Jane Gross, granddaughter of C.P. Gross and Willard D. Gross II, grandson of C.P. Gross and files their joint notice of appeal, pro se, from ORDER issued by Judge Kevin Horne on April 19, 2000. the 3rd day of May 2000.

_____
Jane Gross, pro se

_____
Willard Gross II, pro se

S. App. 19

COMMONWEALTH OF KENTUCKY
FAYETTE DISTRICT COURT
PROBATE DIVISION
IN RE: The Estate of Caleb P. Gross, Deceased
No. 91-P-1247
FILED and ENTERED MAY 17, 2000

NOTICE OF APPEAL

****

Comes the petitioner Willard D. Gross, son and heir of C.P. Gross files his notice of appeal, pro se, from ORDER issued by Judge Kevin Horne on April 19, 2000. This the 17th day of May 2000.

Willard D. Gross, pro se
6718 Russell Cave Road
Lexington, KY 40511

KENTUCKY RESIDENT
INHERITANCE AND ESTATE
TAX RETURN

597126 / 46 / 2000
Account No. Tax Year

Frederick G. Irtz II May 12, 2000

SCHEDULE J

EXECUTOR COMMISSIONS
Frederick G. Irtz, II.....$50,000.00

Prepared and signed by Frederick G. Irtz, II
Administrator of C.P. Gross' estate.

Frederick G. Irtz, II
P.O. Box 22777
Lexington, KY 40522
(859) 233-4643
May 12, 2000

S. App.21

COMMONWEALTH OF KENTUCKY
FAYETTE DISTRICT COURT
PROBATE DIVISION

IN RE: The Estate of Caleb P. Gross, Deceased

No. 91-P-1247

FILED and ENTERED SEPTEMBER 26, 2001

MOTION FOR PERIODIC ACCOUNTING

Comes Willard D. Gross, pro se son and heir of Caleb P. Gross and moves the court under KRS 395.610 to issue an order for the administrator to file a full and complete accounting of C.P. Gross' estate with the court and service to Willard D. Gross within 15 days.

Submitted by,

_____

Willard D. Gross, pro se
6718 Russell Cave Road
Lexington, KY 40511

Estate of Caleb P. Gross

DISTRIBUTION CALCULATION

ASSETS FOR DISTRIBUTION

LESS: CLAIMS, DEBTS AND EXPENSES

Additional Admin. Expenses	$40,000.00

Prepared on August 8, 2000